



REFERENCE

COEUR D'ALENE TRIBE

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July 15, 2005

The Honorable C.L. "Butch" Otter
House of Representatives
Washington, DC 20510

Dear Mr. Otter:

On behalf of the Coeur d'Alene Tribe, I am writing to express our concern with the comprehensive energy policy entering conference committee currently. The Coeur d'Alene Tribe understands the importance of developing a strategic national Indian energy policy that respects tribal sovereignty, promotes tribal energy self-sufficiency and assists in the national goal of energy independence. The nation relies heavily upon foreign oil for its transportation and consumer related energy needs making the United States dependent upon foreign governments to ensure a stable energy source. This is a national security concern that affects all Americans.

However, domestically located Indian Tribes including the Coeur d'Alene Tribe own significant energy resources, both renewable and nonrenewable, and should be a full partner as you progress in addressing energy issues in the conference committee. The Indian energy provision of both the House and Senate version of the comprehensive energy legislation is known as the *Indian Tribal Energy Development and Self Determination Act of 2005*. Under Section 2604(e) of the legislation, tribal governments may enter into tribal energy resource agreements to develop their energy resources. Section 2604(b) allows an Indian tribe to grant a right-of-way over tribal land for a pipeline or other utility without approval by the Secretary of the Interior if the right-of-way is granted pursuant to a tribal energy resource agreement; the right-of-way does not exceed thirty years; and the utility serves a facility located on tribal land or processes or refines energy developed on tribal land.

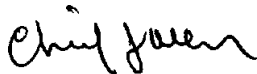
The Coeur d'Alene Tribe opposes any language that would grant rights-of-way without gaining tribal consent and Title XVI, Section 1307, which allows for a study of Indian land rights-of-way. Energy companies such as those that are members of the New Mexico Oil and Gas Association have made the argument to Congress that a tribal consent requirement is unfair because tribes are charging too much for rights-of-way and have created an impediment to energy transportation. As you are aware, rights-of-way on Indian lands have been historically undervalued by the Department of the Interior – which often set rates

at agricultural levels for high-value energy corridors and had deeply discounted the value of tribal lands as compared to private lands.

In recent years, tribes have been negotiating rights-of-way agreements on their own that shifted the paradigm to a more economic valuation of rights-of-way. This has increased the cost of tribal rights-of-way to a level where many tribes including the Coeur d'Alene Tribe have been able to gather much needed revenue as a tool of economic development. Thus, the Coeur d'Alene Tribe would oppose any language that would authorize the Secretary of the Interior (Secretary) the authority to grant a right-of-way over tribal land without Coeur d'Alene tribal consent and the study of Indian rights-of-way since it could result in creation of procedures allowing the Secretary the authority to exercise eminent domain over tribal land without tribal consent. The language contained within Section 2604(b) allows the tribe the flexibility to grant a right-of-way after completion of a tribal energy resource agreement approved by the Secretary. The Coeur d'Alene Tribe does not see the need to have a study of Indian rights-of-way that has been advocated for by the oil and gas associations in their attempt to further their own interests at the expense of tribal governments.

The Coeur d'Alene Tribe supports the discussion of the Indian energy legislation as introduced which increases opportunities for the Coeur d'Alene Tribe to develop their tribal resources through loans, grants, technical assistance, and that are environmentally sound and culturally relevant to insure that tribal energy needs are satisfied. The Coeur d'Alene Tribe hopes to develop and market their energy resources in a free and open market to aid in addressing the Nation's energy demand. If you should require any additional information, please contact my legislative director, Quanah Spencer, at 208-686-0803 or e-mail at qspencer@cdatribe-nsn.gov.

Sincerely,



Chief J. Allan, Chairman
Coeur d'Alene Tribe

Cja:qms